
HELP AND LEGAL PROTECTION OF CRIME VICTIMS

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Abstract: One of the main goals of each state must be to protect and secure the rights of victims of crime, as one of the most serious worldwide concerns. In earlier periods, victims have not had proper treatment, and adequate legal protection has not been offered compared to the present. The focus has been more oriented toward the perpetrator of the criminal activity. Today all local and international legislation is focused on improving the position of victims of crime, realizing it in practice, and we can say that we have a very significant improvement in the status of victims.

Kosovo legal framework in terms of protection and assistance for victims is in line with international standards. Unfortunately, a significant number of people who are victims of criminal acts in our society continue to remain dark or undiscovered, due to the impact of various factors. All competent institutions must provide dutiful, equal treatment for all victims without differences on gender, racial, social, or economic status grounds, as one of the fundamental human rights. Such treatment represents human respect and solidarity.

Cooperation between all law enforcement institutions, cooperation with citizens, and organizing self-awareness campaigns for citizens regarding the rights they belong to as a victim, the provision of proper medical care, as well as the pronouncement of the punishment deserved by the perpetrators of the criminal work, are the key elements, intending to ensure a safe society for all.

Therefore, the drafting of preventative crime policies to reduce the number of victims is necessary.

We must attempt to live the motto "Justice, dignity, and respect for victims of crime" and "Justice restores the dignity of victims" in practice. These measures must be undertaken to make sure that all victims after the act of victimization can be re-socialized, can continue their lives as independent, and protected, and return to society as active and contributing members. The realization of the rights of victims and their compensation in practice will increase their credibility and security in the bodies of justice.

The work discusses the state of the defense system and the assistance offered to victims in Kosovo, from the moment of victimization to the moment of their compensation, as well as the problems they face. The methods applied in this work are historical, descriptive, and comparative methods, which methods have been adapted to the nature of the research on this subject.

Keywords: victims, legal protection, rights, compensation

1. INTRODUCTION

As in many other countries (which are in transition), in Kosovo, the study, research, and scientific research regarding the issues related to the crime victim, particularly with her position in the criminal justice system, is presented as the need of the hour. (Puka, A. 2009). Who is considered a victim? The term victim means the person or group that has suffered or has been harmed. Victimization has to do with deprivation of life, damage to bodily integrity, the destruction of physical and mental health, and short-term or long-term serious physical and psychological consequences. Injury and damage also mean the destruction of property and other moral and material goods, the violation and encroachment on individual and collective human rights and freedoms, and so forth. The victim is the man and his rights and goods. But today we also talk about the victim in the broadest sense of the word, when plants and animals are also included as victims. (Halili, R. 2007). In the national aspect, the victims' rights are protected by the Constitution, the Criminal Code, the Code of Criminal Procedure, and the laws of the Republic of Kosovo. The Criminal Code of Kosovo defines a vulnerable victim as a victim of a criminal offense who is a child, a person with physical or mental disabilities, a person with reduced abilities, a pregnant woman, an elderly person, or a person whose relationship or dependence on the perpetrator makes him particularly susceptible to repeated victimization, repeated intimidation, or repeated retaliation. (Penal Code of Kosovo, 2019).

Professionals in the justice system distinguish the procedural rights of victims into two groups: those exercised based on the victim's request and those exercised directly by the prosecuting body. (Anastasi, A. 2019).

In Article 62 of the Code of Criminal Procedure of Kosovo, the victims' rights are defined as: the victim of a criminal offense must be treated with respect by the police, prosecutors, judges or other body that implements the criminal procedure, if the victim of a criminal offense can be identified, the police and the prosecutor or other body implementing the criminal procedure must contact the injured party in a reasonable manner and inform him that he is the injured party, the injured party has the capacity of a party in criminal proceedings, the injured party has the right to reasonable compensation ordered by the court from the defendant or defendants who have admitted or have been found guilty for the material, physical and emotional damage caused by the commission of the criminal offense

for which the defendant or defendants have been found guilty, if the court cannot order compensation from the defendant or defendants due to their inability to pay, lack of jurisdiction or death, injured he has the right to ask the court to send the order for compensation to the coordinator of the victim compensation fund. (Kosovo Criminal Procedure Code, 2012). So, first of all, the victim must be informed of his rights in all stages of the procedure, such as: informing and familiarizing the victim with his rights in the procedure, right to respect for dignity, moral and personal integrity, the victim's right to professional protection, the victim's right to free movement and protection from harassment and threats, etc. (Halili, R. 2007).

Following Article 4 of the Istanbul Convention, namely that "measures to protect the rights of victims are provided without discrimination based on gender, race, color, language, religion, political or other opinions, national or social origin, belonging to a national minority, wealth, birth, sexual orientation, gender identity, age, state of health, disability, civil status, immigrant or refugee status, or another status", in the implementation of all measures and actions provided for in the strategic and broken down objectives and then in the specific objectives, the cross-sectoral approach has been followed, and special attention has been given to addressing the multiple discrimination suffered by specific groups in society following Article (National strategy for protection from domestic violence and violence against women 2022–2026, 2022–2026, the cross-sectoral approach has been followed, and special attention has been given to addressing the multiple discrimination suffered by specific groups in society.

In terms of the protection of freedoms and human rights, the victim of a criminal offense is precisely the person whose freedoms and human rights are most violated or damaged. For this reason, international law and contemporary national criminal rights pay special attention to the victim. This care is expressed through restitution, compensation for damage, social assistance to the victim, and other measures.

In addition to these measures, the victim is also recognized with other rights, such as the right to be informed and to ascertain the truth, the protection of his private life, the special protection of victims for certain types of criminal offenses, such as criminal offenses against sexual integrity, the protection of personal safety, and so forth. One of the first international documents that recognize the rights of victims of criminal offenses is the Declaration of Basic Principles on the Rights of Victims of Crime and Abuse of Power, adopted by the United Nations General Assembly in 1985. (Salihu, I. 2016)

At the European level, a series of documents have also been approved with the aim of legal advancement of the victim's position; among them, it is worth mentioning: the European Convention on Compensation for Victims of Crime of 1983, recommendations such as Recommendation No. 85/11 on the Position of Victims in the Framework of Criminal Law and Criminal Procedure, Recommendation No. 4/85 on the Protection of Victims in the Family, Recommendation No. 21/87 on Victim Support and Prevention of Victimization, Recommendation No. 8/2006 on Assistance to Crime Victims, and so forth. (Puka, A. 2009)

Victim compensation must be internationalized, and organized assistance must be given to this process in countries where the practical implementation of the adopted rules is necessary to overcome the current experience of the theoretical promotion of rights and their non-realization in practice. However, the role of the victim cannot be limited only to the request for compensation for damage; a common opinion must be found regarding the possibility of their direct participation in all stages of the criminal process. (Arifi, B. 2008).

Within the forms for compensation of victims, we have compensation of victims from the state; compensation from special funds; and compensation from NGOs, humanitarian organizations, and charitable associations. (Halili, R. 2011).

Article 6 of the Law on Compensation for Victims of Crime defines compensable violent acts as all those acts that result in the death of the victim, serious bodily injury, serious damage to physical health, or damage to mental health. The types of compensation according to this law are: compensation for physical injury or damage to health; compensation for damage to mental health; compensation for mental suffering; compensation for mental suffering for the loss of a family member; compensation for the loss of the right to maintenance; compensation for funeral expenses; and compensation for damage to or destruction of medical equipment. To realize the right to compensation, the victim must first submit the request for compensation, together with the documents required by the Ministry of Justice, to the relevant unit for support from the Commission for Compensation of Crime Victims. (Crime Victims Compensation Law, 2022).

The cooperation of victims and witnesses is crucial for achieving successful prosecutions of perpetrators and for the destruction of organized criminal groups. However, one of the challenges many criminal justice systems face in investigating and prosecuting crimes is achieving such cooperation.

Victims and witnesses may be reluctant to provide information and testimony due to intimidation or perceived or real threats against them or their family members. This concern can be exacerbated when people who come into contact with the criminal justice system are particularly vulnerable. For example, based on their age and levels of

maturity development, children require special measures to ensure that they are properly assisted and protected by criminal justice processes.

All criminal justice systems must establish procedures to ensure measures for the protection of persons whose cooperation with the criminal justice system in an investigation or prosecution puts them, or persons closely associated with them, at serious physical or emotional risk. Such measures may include: pre-trial and during-trial assistance to cope with psychological and practical obstacles to giving evidence; safeguards before, during, and after the hearing or trial for "at-risk" witnesses; court procedures to ensure the safety of the witness while giving evidence; and a program of undercover witness protection. (UNDOC, 2013).

The question arises as to where they can report gender-based violence and other forms of violence. Such state mechanisms are: Kosovo Police, Police Inspectorate/Department of Investigations, State Prosecutor, Center for Social Work, Courts, Free Legal Aid Agency (ANJF), Ombudsman Institution (IAP) (Group for Legal and Political Studies, 2020).

2. METHODOLOGY

The methods I have selected for the realization of this paper are comparative, historical, and descriptive methods, which are adapted to the object of study of this paper. Comparative method: to determine the similarities and differences related to the legal assistance and protection of crime victims based on the legislation of different countries. Historical method: for reflecting the legal treatment of crime victims in different periods, namely from the earliest periods to the present day.

Descriptive method: during the research on this topic, I also applied this method for the most detailed description of the help and protection of crime victims, not only that but also the description of the measures that should be taken to prevent victimization and the factors and causes of victimization.

3. RESULTS

With the entry into force of the Law on Compensation of Crime Victims, it has been possible to realize rights equally for all victims of crime in Kosovo, a very important step in terms of the rule of law. Since 2010, the Office for Victim Protection and Assistance has expanded its activities to sensitize society to their basic rights, so for the first time it has organized the Week for the Rights of Crime Victims. This week is dedicated to crime victims in the Republic of Kosovo, including victims of domestic violence, victims of sexual violence, victims of human trafficking, family victims of murder cases, and victims of robbery.

During the Week for the Rights of Crime Victims held in October of each year, various campaigns are organized in schools, municipal facilities, television shows, the publication of the contact number of the Helpline Operator by mobile phone operators, on television, and in various publications to sensitize public opinion, where citizens can call free of charge 24/7 to present the case or to be informed and advised about what violence is, what should be done to prevent violence, and what steps should be taken by citizens to report the case. The organization of Crime Victims' Rights Week is held each time for the sole purpose of combating negative phenomena in society. (State Prosecutor, Office for Victim Protection and Assistance, 2016).

In order to prevent victimization, it is necessary to study and analyze its factors and causes. Measures for training and increasing the efficiency of state bodies in protecting and ensuring the rights of victims, measures of various public and non-governmental agencies and organizations, measures for the right information of victims, measures related to awareness and education on the protection and compensation of victims, measures for changes and harmonization of positive legislation related to the protection, rights, and compensation of victims, and measures for local and international cooperation and coordination in the protection of victims and prevention of victimization are the most necessary measures that significantly contribute to the prevention of victimization. (Halili, R. 2011).

4. DISCUSSIONS

The issue of the victimization of people is a very sensitive one; therefore, they should be treated as carefully as possible in order to avoid the violation of their essential rights. Persons dealing with victims must have the necessary skills to fulfill their responsibilities and roles, to effectively identify victims, to apply an understanding of gender-based violence, and to collaborate effectively in order to provide quality services. Also, training is the main tool for dealing with the prejudices, stereotypes and blaming attitudes of professionals towards victims, which can result in a second victimization when the victim is retraumatized by the professionals themselves and the institutions responsible for helping them. (Krol, P. & Kabashi, E. & Ramizi Bala, A. 2017).

An important element is the confidentiality of the victims. The unnecessary publication of victims' data may negatively affect the victim protection process. Another important circumstance is the sentencing of the perpetrator of the criminal offense. Similar to the personal circumstances of the perpetrator, the circumstances surrounding the

victim enable the court to take into account the characteristics of the victim, which enables it to impose a sentence that reflects the impact of the offense on the victim.

The court may consider the impact of the offense on all those who may have been affected by the commission of the offense. For example, witnesses to the crime and their family members or loved ones can all be considered victims of the perpetrator's direct actions, depending on their nature and impact. (Supreme Court of the Republic of Kosovo, 2018). So the punishment must always be in proportion to the gravity of the crime. Good knowledge of the scale of crime and how offenders are treated is essential to managing and developing justice agencies. (UNODC Statistics Training, Situation, and Governance, 2010).

5. CONCLUSION

The rights of the victims are considered one of the most basic human rights; therefore, the issue of protection and the provision of legal aid should be a priority for every state. To exercise their rights, victims must first be informed about their rights as injured people and how to exercise those rights. Most victims do not exercise their rights because they are not aware of them, and they do not have information about these rights, so they suffer as a result of neglect and a lack of information. It is crucial to implement the rights of the victims in all stages of the criminal procedure. The cooperation of all institutional mechanisms and actors involved in the protection of victims, in this regard, is most necessary. So such an activity will be possible with the mobilization of all these actors, where each of them will take the appropriate responsibilities and measures. Serious and appropriate treatment of crime victims will affect their improvement in their society, how they can be in good condition, and how they can cope with their health. It is necessary to provide counseling centers for victims, ensure their safety, and provide funds for their compensation, that is, to raise their efficiency and advancement.

The implementation of all these aforementioned processes enables an orderly judicial process and increases citizens' confidence in effective justice.

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